

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

MENGYANG LI

Plaintiff,

v.

**CIVIL ACTION NO.: 3:19-cv-216
(GROH)**

SHEPHERD UNIVERSITY,

Defendant.

**DEFENDANT SHEPHERD UNIVERSITY'S
NOTICE OF CONFLICT WITH MEDIATION DATE AND FOR THE ENTRY OF A
NEW SCHEDULING ORDER**

Defendant Shepherd University, by counsel, hereby submits the following in response to the Court's Order Directing the Parties to Mediate entered on September 15, 2023 [ECF No. 100] and the Order Setting Mediation [ECF No. 101]. One of the required representatives of Shepherd University is not available on September 26, 2023, the date of the mediation set by the Court. Specifically, the representative of its insurance carrier has a conflict that does not permit her to attend that day considering the travel required from Charleston, West Virginia for her to appear in person given prior commitments. Undersigned counsel has conferred with the Plaintiff and submits that the parties are available on September 27, September 28 and October 9, 2023 and it is requested that the mediation be re-set.

Shepherd University further moves the Court for the entry of a Second Amended Scheduling Order pursuant to Rule 16 of the Federal Rules of Civil Procedure. It acknowledges that no action has been taken in this matter following the entry of the Amended Scheduling Order. [ECF No. 88]. This was based on the pro se Plaintiff's appeal of the entry of that very order and his request in his Notice of Appeal to stay this matter pending the outcome of his appeal. [ECF

No. 90-6]. In his Notice of Appeal, the Plaintiff also expressed his intention to file a complaint with the U.S. Equal Employment Opportunity Commission, seek representation and to file a new action in another court. He further represented that he would be filing an amended complaint to add additional counts related to perceived discriminatory acts that had occurred after the filing of his original complaint. Finally, Plaintiff also requested that this matter be assigned to a different judge if the case would proceed in this Court. [ECF No. 90-7]. While not formally filed pursuant to Rule 8 of the Federal Rules of Appellate Procedure, Shepherd University considered this matter to rest in the jurisdiction of the U.S. Court of Appeals and that that court would address Plaintiff's request as a motion for stay pending the outcome of the Plaintiff's appeal as well as his request for re-assignment of the case.

Shepherd respectfully moves the Court for the entry of a further Amended Scheduling Order pursuant to Rule 16 of the Federal Rules of Civil Procedure should the second mediation of this action prove unsuccessful.

WHEREFORE, Shepherd University asks that the Court re-set the second mediation in this matter and to enter an Amended Scheduling Order should the mediation not resolve the claims in this matter.

Respectfully submitted this 20th day of September 2023.

SHEPHERD UNIVERSITY
By Counsel

/s/ Tracey B. Eberling

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of September 2023, I served the foregoing “***Defendant Shepherd University’s Motion to Re-Set Mediation and for the Entry of a New scheduling Order***” with the Clerk of Court using CM/ECF. I further certify that on the 20th day of September 2023, I forwarded a true copy of the same to the below-named pro se Plaintiff via certified U.S. mail, return receipt requested and email transmission with receipt and read receipts requested.

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